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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,708	07/02/2003	Brian Lindsay	22001-FTN	3742

33621 7590 04/28/2006

EDWARD D. GILHOOLY
28 E. JACKSON BLVD.
SUITE 423
CHICAGO, IL 60604

EXAMINER

NATNAEL, PAULOS M

ART UNIT	PAPER NUMBER
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2622

DATE MAILED: 04/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/612,708	Applicant(s) LINDSAY ET AL.	
	Examiner Paulos M. Natnael	Art Unit 2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,6-9,11,12,14,17-19 and 21-23 is/are rejected.
- 7) ☒ Claim(s) 3-5,10,13,15,16 and 20 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/22/05</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims **1, 6-9,11-12,14,17-19, 21-23** are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyd, U.S. Patent # 5,071,203 in view of Allen, U.S. Patent Application # 2005/0001030.

Considering claims **1,17,18**, Boyd discloses electronic video display means (monitors 16, Fig.1) for displaying images of the information and entertainment (video merchandizing system, Abstract), video control means and audio control means (controller unit 20), which includes appropriate circuitry for monitoring ambient noise levels and automatically adjusting the volume of the audio output(s) from the monitors accordingly." Col. 2, line 66 through col. 3, line 1. Boyd teaches that the video monitors 16 are mounted/disposed on "a support post 50 of the service station island" (col. 4, lines 14-15) Boyd does not specifically disclose modifying the brightness of the display based on existing light conditions. Boyd nevertheless recognizes problems with viewing a conventional television screen in ambient sunlight in providing outdoor video

merchandizing systems. See col. 1, lines 13-24. However, changing the display of video or image according to ambient light conditions is well known in the art of television or video signal displays. In this regard, Allen discloses a system for information display that may be used in gasoline dispensers, ATM's, or the like [Para. 0022 and 0051] and teaches "based on the camera's sensed information, display 150 can be put in various modes, including, for example, brightness mode suitable for existing light conditions, or sleep-mode to reduce energy consumption and wear and tear... Audio speaker 508 is used to deliver to customers audio information separately or in conjunction with the information displayed on display device 150." See paragraphs [0062] and [0063] on pg. 6. It would have been therefore obvious to the skilled in the art at the time the invention was made to modify the system of Boyd by providing the method of modifying or changing brightness of the display screen based on existing light conditions in the service station or the like, in order to make the system of Boyd more useable in conditions of sunlight so that customers at such venues would be able to clearly view the information displayed on the screen or monitor of the display device.

Considering claim 2, see rejection of claim 1;

Considering claim 6, 7,8, Boyd does not specifically disclose LED type screen, however Boyd teaches the monitors 16 are indeed high resolution color monitors (col. 2, lines 43-46). Such displays are notoriously well known in the art and it would have been obvious to the skilled in the art at the time the invention was made to modify the reference of

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Boyd by providing LED screen in order to make the display more viewable reliable in outside, i.e. ambient, light conditions as opposed to the convention CRT type displays.

As to the angle of view in claim **9**, it is well known in the art of display device to position display screens at any desired angle and therefore it would have been an obvious design choice to modify the position of the display of Boyd since any desired angle whether 40% or 45% would perform equally well.

As to claim **11**, see rejection of claim 1;

Considering claims **12** and **14**, Boyd discloses "video control means and audio control means (controller unit 20), which includes appropriate circuitry for monitoring ambient noise levels and automatically adjusting the volume of the audio output(s) from the monitors accordingly." Col. 2, line 66 through col. 3, line 1.

Regarding claim **19**, see rejection of claim 18.

As to claims **21-23**, Boyd does not specifically disclose arranging the screen along perpendicularly arranged pumps, however, it would have been a matter of obvious design choice to arrange the pumps so that the screen may be viewed without being obscured by anything or light reflecting on it.

Allowable Subject Matter

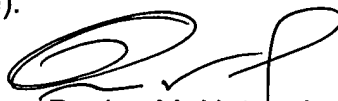
3. Claims 3-5, 10, 13,15-16,20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paulos M. Natnael whose telephone number is (571) 272-7354. The examiner can normally be reached on 9am - 5:30pm M,W, F (7am-3:30pm T,Th).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Ometz can be reached on (571)272-7593. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Paulos M. Natnael
Primary Examiner
Art Unit 2622

PMN
April 26, 2006